

117TH CONGRESS
1ST SESSION

H. R. 4264

To amend section 117 of the Higher Education Act of 1965 to clarify the enforcement of such section, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2021

Mrs. HARSHBARGER (for herself and Mr. KELLER) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend section 117 of the Higher Education Act of 1965 to clarify the enforcement of such section, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Requiring Education
5 Providers to Observe Requirements or Trigger Fines Act”
6 or the “REPORT Fines Act”.

7 **SEC. 2. DISCLOSURES OF FOREIGN GIFTS.**

8 (a) DISCLOSURE REPORT.—Section 117(a) of the
9 Higher Education Act of 1965 (20 U.S.C. 1011f(a)) is
10 amended by striking “the value of which is \$250,000 or

1 more, considered alone or in combination with all other
 2 gifts from or contracts with that foreign source within a
 3 calendar year” and inserting “the value of which is
 4 \$50,000 or more within a calendar year”.

5 (b) ENFORCEMENT.—Section 117(f) of the Higher
 6 Education Act of 1965 (20 U.S.C. 1011f(f)) is amended
 7 to read as follows:

8 “(f) ENFORCEMENT.—

9 “(1) SYSTEM OF PENALTIES.—

10 “(A) FIRST INSTANCE OF FAILURE.—

11 Whenever it appears that an institution has
 12 failed to comply with the requirements of this
 13 section for the first time in a 3-year period, and
 14 except in a case in which a civil action is
 15 brought against an institution under paragraph
 16 (3)—

17 “(i) the Secretary shall issue a written
 18 warning to such institution that sets forth
 19 each failure of compliance, each corrective
 20 action that the institution shall take to be
 21 in compliance, and the requisite time pe-
 22 riod in which the institution must take
 23 such corrective action; and

24 “(ii) the institution shall be provided
 25 the opportunity to respond to the Sec-

retary not later than 60 days after the date on which the warning is received by the institution.

“(B) SECOND INSTANCE OF FAILURE.—In a case in which an institution received a written warning under subparagraph (A), and the institution appears to have failed to comply with the requirements of this section for the second time during the 3-year period beginning on the date on which such warning was received by the institution under subparagraph (A), upon a judicial finding that such institution has failed to comply with the requirements of this section, including any rule or regulation promulgated under this section, the Court shall impose a civil penalty in an amount that does not exceed amount of funds provided by the foreign source to the institution and which is the subject of the institution’s failure under this subparagraph.

“(C) THIRD OR SUBSEQUENT INSTANCE OF FAILURE.—

“(i) JUDICIAL FINDING.—In a case of an institution on which a civil penalty was imposed under subparagraph (B), and

1 such institution appears to have failed to
2 comply with the requirements of this sec-
3 tion for a third time, or any time there-
4 after, during the 3-year period beginning
5 on the date on which a warning was re-
6 ceived under subparagraph (A), upon a ju-
7 dicial finding that an institution has failed
8 to comply with the requirements of this
9 section, including any rule or regulation
10 promulgated under this section, the Court
11 shall impose a civil penalty in an amount
12 equal to the amount of funds provided by
13 the foreign source to the institution and
14 which is the subject of the institution's
15 failure under this subparagraph.

16 “(ii) INELIGIBILITY.—In a case in
17 which the court finds that an institution
18 has failed to comply with the requirements
19 of this section for a third time, or any time
20 thereafter, during the 3-year period begin-
21 ning on the date on which a warning was
22 received under subparagraph (A), including
23 any rule or regulation promulgated under
24 this section, the institution shall be ineli-
25 gible for new Federal research funding

1 during the fiscal year following such a
2 finding.

3 “(2) ACCELERATED PENALTIES.—

4 “(A) IN GENERAL.—In any instance in
5 which a court determines under subparagraph
6 (B) or (C) of paragraph (1) that an institution
7 received funding, and the funding was from a
8 foreign adversary, or any entity associated with
9 a foreign adversary, such institution shall im-
10 mediately be assessed a civil penalty under
11 paragraph (1)(C).

12 “(B) FOREIGN ADVERSARY DEFINED.—
13 For purposes of this paragraph, the term ‘for-
14 eign adversary’ has the meaning given the term
15 in the rule issued by the Department of Com-
16 merce entitled ‘Securing the Information and
17 Communications Technology and Services Sup-
18 ply Chain’ (86 Fed. Reg. 4913 (January 19,
19 2021)). Such foreign adversaries include—

20 “(i) the People’s Republic of China,
21 including the Hong Kong Special Adminis-
22 trative Region (China);

23 “(ii) the Republic of Cuba (Cuba);

24 “(iii) the Islamic Republic of Iran
25 (Iran);

1 “(iv) the Democratic People’s Repub-
2 lic of Korea (North Korea); the Russian
3 Federation (Russia); and

4 “(v) Venezuelan politician Nicolas
5 Maduro (Maduro Regime).

6 “(3) COURT ORDERS.—Whenever it appears
7 that an institution violated this section, other than
8 in a case in which such institution receives a warn-
9 ing under paragraph (1)(A), a civil action shall be
10 brought by the Attorney General, at the request of
11 the Secretary, in an appropriate district court of the
12 United States, or the appropriate United States
13 court of any territory or other place subject to the
14 jurisdiction of the United States, to request such
15 court compel compliance with the requirements of
16 this section and impose civil penalties, as appro-
17 priate.

18 “(4) COSTS.—For any failure to comply with
19 the requirements of this section, including any rule
20 or regulation promulgated thereunder, the institu-
21 tion shall pay to the Treasury of the United States
22 the full costs to the United States of obtaining com-
23 pliance, including all associated costs of investigation
24 and enforcement.”.

1 **SEC. 3. RULES.**

2 (a) IN GENERAL.—Not later than 120 days after the
3 date of enactment of this Act, the Secretary of Education
4 shall promulgate rules to clarify the amendments made by
5 section 2.

6 (b) RULEMAKING REQUIREMENTS.—The amend-
7 ments made by section 2 shall not—

8 (1) be subject to the master calendar require-
9 ments under section 482 of the Higher Education
10 Act of 1965 (20 U.S.C. 1089); or

11 (2) the public involvement and negotiated rule-
12 making requirements under section 492 of the High-
13 er Education Act of 1965 (20 U.S.C. 1098a).

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